

AMENDED IN SENATE JULY 9, 1997
AMENDED IN SENATE JUNE 18, 1997
AMENDED IN ASSEMBLY MAY 5, 1997
AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 662

Introduced by Assembly Member Hertzberg

February 26, 1997

An act to add Section 14602.7 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 662, as amended, Hertzberg. Vehicles: fleeing or evading a peace officer: *reckless driving*: removal and impoundment.

(1) Existing law makes it a crime for any person, while operating a motor vehicle with the intent to evade, to willfully flee, or to otherwise attempt to evade, a pursuing peace officer's motor vehicle or bicycle if certain conditions exist. Existing law provides for enhanced penalties when additional circumstances exist. *Existing law also makes it a crime to drive any vehicle upon a highway in willful or wanton disregard for the safety of persons or property.*

This bill would authorize a peace officer to cause the ~~removal and~~ seizure *and removal* of the person's vehicle ~~when the officer has probable cause for the seizure of the vehicle on~~

the grounds that the vehicle was an instrumentality used in violation of an offense described above *when the peace officer has reasonable cause, as described, to believe the violation occurred.* A vehicle so impounded would be subject to a ~~30-day~~ *an impoundment period that is not to exceed 30 days.*

The bill would prescribe procedures to be followed for the release of the vehicle prior to the end of ~~30-days~~ *the impoundment period*, including a requirement that a legal owner who has obtained possession of the impounded vehicle not relinquish the vehicle to the registered owner until after the termination of the ~~30-day~~ impoundment period and until after the registered owner has presented a valid driver's license or valid temporary driver's license to the legal owner. Because a violation of that requirement and certain other requirements and restrictions imposed by the bill would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14602.7 is added to the Vehicle
 2 Code, to read:
 3 14602.7. ~~(a) Whenever a peace officer determines~~
 4 ~~that probable cause exists for the seizure of a vehicle on~~
 5 ~~the grounds that it was an instrumentality used in~~
 6 ~~violation of Section 2800.1, 2800.2, or 2800.3, the peace~~
 7 ~~officer may immediately cause removal and seizure of~~
 8 ~~that vehicle. A vehicle so impounded shall be impounded~~
 9 ~~for 30 days.~~
 10 14602.7. (a) A peace officer may seize and
 11 immediately cause removal of a vehicle on the grounds
 12 that it was an instrumentality used in violation of Section

1 2800.1, 2800.2, 2800.3, or 23103 when the peace officer has
2 reasonable cause to believe that the violation occurred
3 within his or her presence and it occurred within the
4 preceding six hours, or when the reasonable cause is
5 based upon a written report by a peace officer who states
6 that he or she observed the violation of Section 2800.1,
7 2800.2, 2800.3, or 23103. The report shall be approved by
8 a unit shift supervisor before the report may be entered
9 into a computerized data base and used as the basis of the
10 reasonable cause. A vehicle so impounded may be
11 impounded for a period not to exceed 30 days.

12 The impounding agency, within two working days of
13 impoundment, shall send a notice by certified mail,
14 return receipt requested, to the legal owner of the
15 vehicle, at the address obtained from the department,
16 informing the owner that the vehicle has been
17 impounded. Failure to notify the legal owner within two
18 working days shall prohibit the impounding agency from
19 charging for more than 15 days impoundment when a
20 legal owner redeems the impounded vehicle.

21 (b) The registered and legal owner of a vehicle that is
22 removed and seized under subdivision (a) or their agents
23 shall be provided the opportunity for a storage hearing to
24 determine the validity of, or consider any mitigating
25 circumstances attendant to, the storage, in accordance
26 with Section 22852.

27 (c) (1) An impounding agency shall release a vehicle
28 to the registered owner or his or her agent prior to the
29 end of ~~30 days impoundment~~ the impoundment period
30 under any of the following circumstances:

31 (A) When the vehicle is a stolen vehicle.

32 (B) When the vehicle is subject to bailment and is
33 driven by an unlicensed employee of the business
34 establishment, including a parking service or repair
35 garage.

36 (C) When the registered owner of the vehicle causes
37 a peace officer to reasonably believe, based on the totality
38 of the circumstances, that the registered owner was not
39 the driver who violated Section 2800.1, 2800.2, or 2800.3,

1 the agency shall immediately release the vehicle to the
2 registered owner or his or her agent.

3 (2) No vehicle shall be released pursuant to this
4 subdivision, except upon presentation of the registered
5 owner's or agent's currently valid driver's license to
6 operate the vehicle and proof of current vehicle
7 registration, or upon order of the court.

8 (d) The registered owner or his or her agent is
9 responsible for all towing and storage charges related to
10 the impoundment, and any administrative charges
11 authorized under Section 22850.5.

12 (e) A vehicle removed and seized under subdivision
13 (a) shall be released to the legal owner of the vehicle or
14 the legal owner's agent prior to the end of the ~~30-days~~
15 ~~impoundment~~ *impoundment period* if all of the following
16 conditions are met.

17 (1) The legal owner is a motor vehicle dealer, bank,
18 credit union, acceptance corporation, or other licensed
19 financial institution legally operating in this state or is
20 another person, not the registered owner, holding a
21 financial interest in the vehicle.

22 (2) The legal owner or the legal owner's agent pays all
23 towing and storage fees related to the seizure of the
24 vehicle. No lien sale processing fees shall be charged to
25 the legal owner who redeems the vehicle prior to the 15th
26 day of impoundment.

27 (3) The legal owner or the legal owner's agent
28 presents foreclosure documents or a certificate of
29 repossession and a document of title showing proof of
30 legal ownership for the vehicle.

31 (f) (1) A legal owner or the legal owner's agent that
32 obtains release of the vehicle pursuant to subdivision (e)
33 shall not release the vehicle to the registered owner of the
34 vehicle or any agents of the registered owner, unless a
35 registered owner is a rental car agency, until the
36 termination of the ~~30-day~~ impoundment period.

37 (2) The legal owner or the legal owner's agent shall not
38 relinquish the vehicle to the registered owner until the
39 registered owner or that owner's agent presents his or her
40 valid driver's license or valid temporary driver's license

1 to the legal owner or the legal owner's agent. The legal
2 owner or the legal owner's agent shall make every
3 reasonable effort to ensure that the license presented is
4 valid.

5 (3) Prior to relinquishing the vehicle, the legal owner
6 may require the registered owner to pay all towing and
7 storage charges related to the impoundment and the
8 administrative charges authorized under Section 22850.5
9 that were incurred by the legal owner in connection with
10 obtaining the custody of the vehicle.

11 (g) (1) A vehicle impounded and seized under
12 subdivision (a) shall be released to a rental car agency
13 prior to the end of ~~30 days—impoundment~~ *the*
14 *impoundment period* if the agency is either the legal
15 owner or registered owner of the vehicle and the agency
16 pays all towing and storage fees related to the seizure of
17 the vehicle.

18 (2) The owner of a rental vehicle that was seized
19 under this section may continue to rent the vehicle upon
20 recovery of the vehicle. However, the rental car agency
21 shall not rent another vehicle to the driver who used the
22 vehicle that was seized to evade a police officer until 30
23 days after the date that the vehicle was seized.

24 (3) The rental car agency may require the person to
25 whom the vehicle was rented and who evaded the peace
26 officer to pay all towing and storage charges related to the
27 impoundment and any administrative charges
28 authorized under Section 22850.5 that were incurred by
29 the rental car agency in connection with obtaining
30 custody of the vehicle.

31 (h) Notwithstanding any other provision of this
32 section, the registered owner and not the legal owner
33 shall remain responsible for any towing and storage
34 charges related to the impoundment and the
35 administrative charges authorized under Section 22850.5
36 and any parking fines, penalties, and administrative fees
37 incurred by the registered owner.

38 SEC. 2. No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred

1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

8 Notwithstanding Section 17580 of the Government
9 Code, unless otherwise specified, the provisions of this act
10 shall become operative on the same date that the act
11 takes effect pursuant to the California Constitution.

